

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2015-030-00477R

Parcel No. 07-09-153-032

Lynn and Susan Van Dyke,

Appellants,

v.

Dickinson County Board of Review,

Appellee.

Introduction

This appeal came on for written consideration before the Property Assessment Appeal Board (PAAB) on November 25, 2015. Lynn and Susan Van Dyke were self-represented. Lonnie Saunders is counsel for the Board of Review.

The Van Dykes are the owners of a residential, one-story home located at 1406 34th Street, Spirit Lake. It was built in 2005 and has 1810 square feet of living area, a full walkout basement with 1625 square feet of living-quarter finish, a deck, patio, open porch, and a three-car attached garage. The site is 0.401 acres.

The property's January 1, 2015, assessment was \$381,900, allocated as \$29,700 in land value and \$352,200 in improvement value. On their protest to the Board of Review, the Van Dykes wrote in the area of the form reserved for a claim that the assessment is not equitable as compared with assessments of other like property and that the property is assessed for more than the value authorized by law under Iowa Code sections 441.37(1)(a)(1)(a)(b). However, their equity claim essentially reiterates their over assessment claim. The Board of Review denied the petition.

The Van Dykes then appealed to PAAB asserting the subject property's assessment should be \$350,000.

Findings of Fact

The Van Dykes are first critical of the Board of Review's reason for denying their petition. They assert they provided the Board of Review with five comparable properties and supporting documents; however, the Board of Review refused to accept the information. Upon our request, the Van Dykes submitted the following summary of the information the previously provided to the Board of Review.

	Sale Price	Total Living Area	Bedrooms	Bathrooms
Subject		3600	5	3
1206 34th St	\$360,000	3398	4	3.5
1609 Stover Ave	\$300,000	3400	5	3
3214 Keokuk Ave	\$348,000	3636	6	3
25892 169th St	\$350,000	3740	4	3
3101 Keokuk Ave	\$305,000	3766	5	3.5

Other than the information in this chart, the record contains no other details about the properties, such as the date of sale, quality or condition of the sales.

The appeal notes the five properties were similar in size with an average of 3588 square-feet; and had similar bedroom and bathroom counts. They state that the highest sale price of these properties was \$360,000 and it had a swimming pool; the average sale price was \$332,600. For the foregoing reasons, they believe their property is over-assessed at \$381,900.

We note the Van Dykes included the above-grade and below-grade finish to arrive at a total finished area, as well as including all above-grade and below-grade bedrooms and bathrooms. It is not typical appraisal methodology to total these areas or room counts for analysis. Moreover, they did not adjust these sales for differences between them and the subject property to arrive at a market value opinion.

They also compared their property to 1410 35th Street. (Ex. A). This property has not sold recently and is assessed for \$376,300. It is a one-story home like the subject with similar above-grade and below-grade finish. Although the basement finish for 1410 35th Street is listed as average quality compared to the subject's basement finish being listed as living-quality. This may explain the difference in the assessments.

Finally, Van Dyke's petition to the Board of Review noted they previously listed their property for sale by owner (FSBO), but the best offer they received was \$335,000.

The Board provided a brief summary of the assessment and notes the Van Dykes purchased the property in June 2008 for \$355,000. (Ex. E) It also submitted three recent sales of properties it asserts demonstrate properties have sold for more than \$360,000. (Exs. B-D). The following chart is a summary of these sales.

	Sale Date	Sale Price	Gross Living Area (GLA)	Basement Finish	Year Built	SP/SF
Subject	N/A	N/A	1810	1625 LQ	2005	N/A
3135 Sunner Ave	May-13	\$590,000	2455	2000 LQ	2012	\$240.33
1605 Stover Ave	Feb-14	\$385,000	2236	1700 LQ	2013	\$172.18
601 39th St	Jul-14	\$390,000	2090	756 LQ	2011	\$186.60

Like Van Dykes' comparable properties, these sales are unadjusted, and there is no explanation of them. We give this evidence no consideration.

Conclusions of Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. §§ 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2).

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). The Van Dykes listed several properties with their sales prices, which they contend support a reduction in their assessment. Though they assert the properties were similar in size and room count and demonstrate the subject is over-assessed, no other information was submitted such as the sale date, quality, or condition of these properties. Moreover, the sales were unadjusted and an opinion of market value was not provided. Without this information, we cannot conclude the subject property is over assessed.

Based on the foregoing, we find that the Van Dykes have not met their burden of establishing the property is assessed for more than authorized by law.

Order

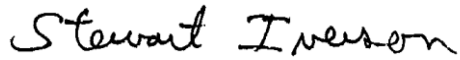
IT IS THEREFORE ORDERED that the Dickinson County Board of Review's action is affirmed.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action. Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.

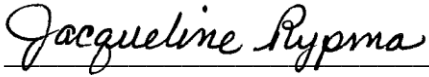
Dated this 23rd day of December, 2015.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

Copies to:

Lynn and Susan Van Dyke

Lonnie Saunders